

# **JOURNAL OF THE SENATE**

## **EIGHTY-NINTH SESSION**

---

TWENTY-FIFTH DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Monday, February 24, 2014

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Dr. Fred MacDonald, followed by the Pledge of Allegiance led by Senate page Natalie Beranek.

Roll Call: All members present except Sen. Bradford who was excused.

### **APPROVAL OF THE JOURNAL**

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twenty-fourth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,  
Corey Brown, Chair

Which motion prevailed.

1 The oath of office was administered by the President to the following named persons:

2 Pages – Natalie Beranek, Chase Conrad, Catherine Dougherty, Sunny Gaughen, Noele  
3 Gross, Connor McNenny, Seth Miller, Karina Noem, Jennifer Palmer

4 Which was subscribed to and placed on file in the office of the Secretary of State.

5 **COMMUNICATIONS AND PETITIONS**

6 January 22, 2014

7 The Honorable Matt Michels  
8 President of the Senate  
9 State Capitol  
10 Pierre, SD 57501

11 Dear Mr. President and Members of the Senate:

12 Pursuant to the provisions of Chapter 1-45 of the South Dakota Codified Laws and subject  
13 to your consent, I have the honor to inform you that I have reappointed Stacy Phelps, Pennington  
14 County, Rapid City, South Dakota, to the South Dakota Board of Education.

15  
16 This appointment is effective immediately, and shall continue until December 31, 2016.

17 Sincerely,  
18 Dennis Daugaard  
19 Governor

20 The President announced the referral of the appointment to the Committee on Education.

21 February 20, 2014

22 The Honorable Matt Michels  
23 President of the Senate  
24 500 East Capitol Avenue  
25 Pierre, SD 57501-5070

26 Dear Mr. President and Members of the Senate:

27 Pursuant to the provisions of Article IV, Section 9, of the Constitution, and subject to your  
28 consent, I am honored to inform you that I have appointed Lynne Valenti, Hughes County,  
29 Pierre, South Dakota, to the position of Secretary of the Department of Social Services.

1      This appointment was effective February 7, 2014.

2 Sincerely,  
3 Dennis Daugaard  
4 Governor

5       The President announced the referral of the appointment to the Committee on Health and  
6   Human Services.

7 **REPORTS OF STANDING COMMITTEES**

8 MR. PRESIDENT:

9       The Committee on Legislative Procedure respectfully reports that the Office of Engrossing  
10       and Enrolling has carefully compared SB 39, 60, 88, and 119 and finds the same correctly  
11       enrolled.

12 Respectfully submitted,  
13 Corey Brown, Chair

14 Also Mr. PRESIDENT:

15       The Committee on Health and Human Services respectfully reports that it has had under  
16       consideration HB 1198 and returns the same with the recommendation that said bill do pass.

17 Also MR. PRESIDENT:

18       The Committee on Health and Human Services respectfully reports that it has had under  
19       consideration HB 1157 and returns the same with the recommendation that said bill do pass and  
20       be placed on the consent calendar.

21 Respectfully submitted,  
22 Jean M. Hunhoff, Chair

23 Also MR. PRESIDENT:

24 The Committee on Transportation respectfully reports that it has had under consideration  
25 HB 1036, 1042, and 1090 and returns the same with the recommendation that said bills do pass  
26 and be placed on the consent calendar.

Respectfully submitted,  
Mike Vehle, Chair

1 Also MR. PRESIDENT:

2 The Committee on Appropriations respectfully reports that it has had under consideration  
3 SB 177 and returns the same with the recommendation that said bill do pass.

4 Also MR. PRESIDENT:

5 The Committee on Appropriations respectfully reports that it has had under consideration  
6 SB 44 and returns the same with the recommendation that said bill be amended as follows:

7 44ma

8 On page 1, line 13, of the printed bill, delete "million dollars".

9 On page 1, line 14, delete "\$1,000,000)" and insert "dollar (\$1)".

10 And that as so amended said bill do pass.

11 Also MR. PRESIDENT:

12 The Committee on Appropriations respectfully reports that it has had under consideration  
13 SB 53 and returns the same with the recommendation that said bill be amended as follows:

14 53aa

15 On page 1, line 4, of the printed bill, delete "five hundred".

16 On page 1, line 5, delete everything before ", or" and insert "one dollar (\$1)".

17 And that as so amended said bill do pass.

18 Also MR. PRESIDENT:

19 The Committee on Appropriations respectfully reports that it has had under consideration  
20 SB 122 and returns the same with the recommendation that said bill be amended as follows:

21 122ja

22 On page 1, line 8, of the printed bill, delete everything after "children" and insert ", as  
23 defined as a person twenty-one years of age or younger, if prescribed or recommended by a  
24 licensed audiologist, physician, or other licensed health care provider legally authorized to  
25 prescribe or recommend such services. The services shall include audiological services, therapy,  
26 supplies, and equipment to diagnose, treat, and correct a hearing impairment.

1 The policy shall provide for services and equipment appropriate for the child, at a minimum  
2 of fifteen hundred dollars per device per ear, with replacement of the equipment available at  
3 least every thirty-six months or sooner when the current device cannot be modified to be  
4 appropriate for the hearing loss. An insured may choose equipment that is priced higher than  
5 the payable benefit and may pay the difference between the price of the equipment and the  
6 payable benefit without financial or contractual penalty to the provider of the equipment."

7 On page 1, delete lines 9 to 11, inclusive.

8 On page 2, line 4, delete everything after "children" and insert ", as defined as a person  
9 twenty-one years of age or younger, if prescribed or recommended by a licensed audiologist,  
10 physician, or other licensed health care provider legally authorized to prescribe or recommend  
11 such services. The services shall include audiological services, therapy, supplies, and equipment  
12 to diagnose, treat, and correct a hearing impairment.

13 The policy shall provide for services and equipment appropriate for the child, at a minimum  
14 of fifteen hundred dollars per device per ear, with replacement of the equipment available at  
15 least every thirty-six months or sooner when the current device cannot be modified to be  
16 appropriate for the hearing loss. An insured may choose equipment that is priced higher than  
17 the payable benefit and may pay the difference between the price of the equipment and the  
18 payable benefit without financial or contractual penalty to the provider of the equipment."

19 On page 2, delete lines 5 to 7, inclusive.

20 On page 2, line 14, delete everything after "children" and insert ", as defined as a person  
21 twenty-one years of age or younger, if prescribed or recommended by a licensed audiologist,  
22 physician, or other licensed health care provider legally authorized to prescribe or recommend  
23 such services. The services shall include audiological services, therapy, supplies, and equipment  
24 to diagnose, treat, and correct a hearing impairment.

25 The policy shall provide for services and equipment appropriate for the child, at a minimum  
26 fifteen hundred dollars per device per ear, with replacement of the equipment available at least  
27 every thirty-six months or sooner when the current device cannot be modified to be appropriate  
28 for the hearing loss. An insured may choose equipment that is priced higher than the payable  
29 benefit and may pay the difference between the price of the equipment and the payable benefit  
30 without financial or contractual penalty to the provider of the equipment."

31 On page 2, delete lines 15 to 17, inclusive.

32 On page 2, line 24, delete everything after "children" and insert ", as defined as a person  
33 twenty-one years of age or younger, if prescribed or recommended by a licensed audiologist,  
34 physician, or other licensed health care provider legally authorized to prescribe or recommend  
35 such services. The services shall include audiological services, therapy, supplies, and equipment  
36 to diagnose, treat, and correct a hearing impairment.

37 The policy shall provide for services and equipment appropriate for the child, at a minimum  
38 of fifteen hundred dollars per device per ear, with replacement of the equipment available at  
39 least every thirty-six months or sooner when the current device cannot be modified to be

appropriate for the hearing loss. An insured may choose equipment that is priced higher than the payable benefit and may pay the difference between the price of the equipment and the payable benefit without financial or contractual penalty to the provider of the equipment."

On page 3, delete lines 1 to 3, inclusive.

On page 3, line 10, delete everything after "children" and insert ", as defined as a person twenty-one years of age or younger, if prescribed or recommended by a licensed audiologist, physician, or other licensed health care provider legally authorized to prescribe or recommend such services. The services shall include audiological services, therapy, supplies, and equipment to diagnose, treat, and correct a hearing impairment.

The policy shall provide for services and equipment appropriate for the child, at a minimum of fifteen hundred dollars per device per ear, with replacement of the equipment available at least every thirty-six months or sooner when the current device cannot be modified to be appropriate for the hearing loss. An insured may choose equipment that is priced higher than the payable benefit and may pay the difference between the price of the equipment and the payable benefit without financial or contractual penalty to the provider of the equipment."

On page 3, delete lines 11 to 13, inclusive.

On page 3, line 20, delete everything after "children" and insert ", as defined as a person twenty-one years of age or younger, if prescribed or recommended by a licensed audiologist, physician, or other licensed health care provider legally authorized to prescribe or recommend such services. The services shall include audiological services, therapy, supplies, and equipment to diagnose, treat, and correct a hearing impairment.

The policy shall provide for services and equipment appropriate for the child, at a minimum of fifteen hundred dollars per device per ear, with replacement of the equipment available at least every thirty-six months or sooner when the current device cannot be modified to be appropriate for the hearing loss. An insured may choose equipment that is priced higher than the payable benefit and may pay the difference between the price of the equipment and the payable benefit without financial or contractual penalty to the provider of the equipment."

On page 3, delete lines 21 to 23, inclusive.

122mb

On the printed bill, delete everything after the enacting clause and insert:

"Section 1. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as follows:

Any qualified health plan issued on or after January 1, 2015, that offers coverage for professional audiology services shall include coverage for medically necessary physician services appropriate for the treatment of hearing impairment to a person under the age of nineteen. This shall include professional services rendered by an audiologist licensed pursuant to chapter 36-24.

1 The benefits provided shall be subject to the same dollar limits, deductibles, coinsurance and  
2 other limitations provided for other covered benefits in the policy.

3 Nothing in this section requires the payment by the health plan of hearing aids, devices, or  
4 equipment to correct hearing impairment or loss.

5 Section 2. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Any qualified health plan issued on or after January 1, 2015, that offers coverage for  
8 professional audiology services shall include coverage for medically necessary physician  
9 services appropriate for the treatment of hearing impairment to a person under the age of  
10 nineteen. This shall include professional services rendered by an audiologist licensed pursuant  
11 to chapter 36-24.

12 The benefits provided shall be subject to the same dollar limits, deductibles, coinsurance and  
13 other limitations provided for other covered benefits in the policy.

14 Nothing in this section requires the payment by the health plan of hearing aids, devices, or  
15 equipment to correct hearing impairment or loss.

16 Section 3. That chapter 58-18B be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 Any qualified health plan issued on or after January 1, 2015, that offers coverage for  
19 professional audiology services shall include coverage for medically necessary physician  
20 services appropriate for the treatment of hearing impairment to a person under the age of  
21 nineteen. This shall include professional services rendered by an audiologist licensed pursuant  
22 to chapter 36-24.

23 The benefits provided shall be subject to the same dollar limits, deductibles, coinsurance and  
24 other limitations provided for other covered benefits in the policy.

25 Nothing in this section requires the payment by the health plan of hearing aids, devices, or  
26 equipment to correct hearing impairment or loss.

27 Section 4. That chapter 58-41 be amended by adding thereto a NEW SECTION to read as  
28 follows:

29 Any qualified health plan issued on or after January 1, 2015, that offers coverage for  
30 professional audiology services shall include coverage for medically necessary physician  
31 services appropriate for the treatment of hearing impairment to a person under the age of  
32 nineteen. This shall include professional services rendered by an audiologist licensed pursuant  
33 to chapter 36-24.

34 The benefits provided shall be subject to the same dollar limits, deductibles, coinsurance and  
35 other limitations provided for other covered benefits in the policy.

1 Nothing in this section requires the payment by the health plan of hearing aids, devices, or  
2 equipment to correct hearing impairment or loss."

3 And that as so amended said bill do pass.

4 Also MR. PRESIDENT:

5 The Committee on Appropriations respectfully reports that it has had under consideration  
6 SB 149 and returns the same with the recommendation that said bill be amended as follows:

7 149ha

8 On page 2, line 4, of the printed bill, delete everything after "one" .

9 On page 2, line 5, delete everything before "or" and insert "dollar (\$1),".

10 On page 2, line 7, delete "four thousand dollars (\$4,000)" and insert "one dollar (\$1)".

11 And that as so amended said bill do pass.

12 Respectfully submitted,  
13 Deb Peters, Chair

14 Also MR. PRESIDENT:

15 The Committee on Taxation respectfully reports that it has had under consideration  
16 HB 1221 which was deferred to the 41<sup>st</sup> Legislative Day.

17 Respectfully submitted,  
18 Ernie Otten, Chair

19 Also MR. PRESIDENT:

20 The Committee on State Affairs respectfully reports that it has had under consideration  
21 SB108 and HB 1050 and 1099 and returns the same with the recommendation that said bills do  
22 pass.

23 Also MR. PRESIDENT:

24 The Committee on State Affairs respectfully reports that it has had under consideration  
25 HB 1051 and returns the same with the recommendation that said bill do pass and be placed on  
26 the consent calendar.



1 Also MR. PRESIDENT:

2 The Committee on State Affairs respectfully reports that it has had under consideration  
3 SB 110 and returns the same with the recommendation that said bill be amended as follows:

4 110fa

5 On the printed bill, delete everything after the enacting clause and insert:

6 "Section 1. That § 3-6E-8 be amended to read as follows:

7 3-6E-8. The State of South Dakota shall either make a monthly contribution to the system  
8 or otherwise provide for the amount necessary to make payment to the system for the full single  
9 rate monthly health insurance premium or contribution for each employee. Each employee shall  
10 pay a premium or make a contribution for the employee's health insurance that is equal to seven-  
11 tenths of a percent of the employee's salary. This amount shall be transmitted to the account of  
12 the state employees benefits plan in the Office of the State Treasurer. The state treasurer, after  
13 making a record of the receipts, shall credit the benefits plan with an amount equal to that  
14 remitted or otherwise provided. After the contribution has been assigned to the benefits plan,  
15 the Bureau of Human Resources shall disburse the contribution in accordance with the  
16 provisions of this chapter and the rules promulgated pursuant to chapter 1-26 by the  
17 commissioner of the Bureau of Human Resources."

18 110fta

19 On page 1, line 1, of the printed bill, delete everything after "Act to" and insert "require  
20 state employees to make certain payments or contributions for health insurance."

21 On page 1, delete line 2.

22 And that as so amended said bill do pass.

23 Also MR. PRESIDENT:

24 The Committee on State Affairs respectfully reports that it has had under consideration  
25 SB 181 and returns the same with the recommendation that said bill be amended as follows:

26 181ob

27 On the printed bill, delete everything after the enacting clause and insert:

28 "Section 1. That chapter 34-46 be amended by adding thereto a NEW SECTION to read  
29 as follows:

30 For the purposes of §§ 34-46-2 to 34-46-6, inclusive, and this Act, the term, tobacco  
31 product, includes vapor product. The term, vapor product, means any noncombustible product  
32 containing nicotine that employs a heating element, power source, electronic circuit, or other

1 electronic, chemical, or mechanical means, regardless of shape or size, that can be used to  
2 produce vapor from nicotine in a solution or other form. The term, vapor product, includes any  
3 electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or  
4 device and any vapor cartridge or other container of nicotine in a solution or other form that is  
5 intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo,  
6 electronic pipe, or similar product or device. The term, vapor product, does not include any  
7 product approved by the United States Food and Drug Administration for sale as tobacco  
8 cessation products and marketed and sold solely for that purpose.

9 Section 2. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 No person may sell a vapor product other than in an unopened package originating with the  
12 manufacturer and depicting the warning labels required by federal law, or sell a vapor product  
13 through self-service display other than a display that is:

14 (1) A vending machine permitted under subdivision 34-46-2(5); or

15 (2) Located in a tobacco specialty store.

16 A violation of this section is a Class 2 misdemeanor. A person is not liable for more than  
17 one violation of this section on a single day."

18 181otb

19 On page 1, line 1, of the printed bill, delete everything after "Act to" and insert "define  
20 vapor products as tobacco products for the purpose of regulating the use of the products by  
21 minors and to place certain restrictions on the sale of vapor products.".

22 On page 1, delete line 2.

23 And that as so amended said bill do pass.

24 Also MR. PRESIDENT:

25 The Committee on State Affairs respectfully reports that it has had under consideration  
26 HB 1054 and returns the same with the recommendation that said bill be amended as follows:

27 1054jk

28 On page 1, line 13, of the House engrossed bill, after "plans" insert ". This term does not  
29 include any insurance producer licensed pursuant to chapter 58-30, unless an insurance producer  
30 is directly involved in the adjudication of claims".

31 On page 3, line 7, delete "has" and insert "coverage, and causation of claims have".

On page 4, line 15, delete "director may, at the director's discretion," and insert "secretary of Labor and Regulation may".

And that as so amended said bill do pass.

Respectfully submitted,  
Larry Rhoden, Chair

## MESSAGE FROM THE HOUSE

MR. PRESIDENT:

I have the honor to return herewith SB 39, 60, 88, and 119 which have passed the House without change.

Respectfully,  
Arlene Kvislen, Chief Clerk

## MOTIONS AND RESOLUTIONS

Friday, Sen. Rhoden announced his intention to reconsider the vote by which SB 170 lost.

Sen. Rhoden moved that the Senate do now reconsider the vote by which SB 170 lost.

The question being on Sen. Rhoden's motion to reconsider the vote by which SB 170 lost.

And the roll being called:

Yeas 23, Nays 11, Excused 1, Absent 0

Yeas:

Begalka; Buhl O'Donnell; Ewing; Frerichs; Hunhoff (Jean); Jensen; Jones (Tom); Kirkeby; Krebs; Lucas; Maher; Peters; Rampelberg; Rave; Rhoden; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke

Nays:

Brown; Curd; Heineman (Phyllis); Holien; Jones (Chuck); Lederman; Monroe; Novstrup (Al); Omdahl; Otten (Ernie); White

Excused:

Bradford

1 So the motion having received an affirmative vote of a majority of the members-elect, the  
2 President declared the motion carried and SB 170 was up for reconsideration and final passage.

3 SB 170: FOR AN ACT ENTITLED, An Act to revise the structure for compensating  
4 surface owners for losses due to mineral development.

5 Having had its second reading was up for reconsideration and final passage.

6 170oa

7 Sen. Rhoden moved that SB 170 be amended as follows:

8 On the printed bill, delete the previously adopted amendment (170tb).

9 On page 1, delete lines 10 to 13, inclusive, and insert "determining damages, consideration  
10 shall be given to the period of time during which the loss occurs ~~and the~~. The surface owner may  
11 elect to be paid damages in annual installments over a period of time. However, the surface  
12 owner shall be compensated for harm caused by exploration only by a single sum payment. The  
13 payments contemplated by this".

14 Which motion prevailed.

15 The question being "Shall SB 170 pass as amended?"

16 And the roll being called:

17 Yeas 21, Nays 13, Excused 1, Absent 0

18 Yeas:

19 Begalka; Buhl O'Donnell; Ewing; Frerichs; Hunhoff (Jean); Jensen; Jones (Tom); Kirkeby;  
20 Krebs; Lucas; Maher; Peters; Rampelberg; Rave; Rhoden; Soholt; Solano; Sutton; Tidemann;  
21 Vehle; Welke

22 Nays:

23 Brown; Curd; Heineman (Phyllis); Holien; Jones (Chuck); Lederman; Monroe; Novstrup (Al);  
24 Omdahl; Otten (Ernie); Tieszen; Van Gerpen; White

25 Excused:

26 Bradford

27 So the bill having received an affirmative vote of a majority of the members-elect, the  
28 President declared the bill passed and the title was agreed to.

1                                   **CONSIDERATION OF REPORTS OF COMMITTEES**

2           Sen. Rave moved that the reports of the Standing Committees on  
3           Health and Human Services on SB 145 as found on page 397 of the Senate Journal; also  
4           Transportation on SB 36 as found on page 398 of the Senate Journal; also  
5           Appropriations on SB 28 as found on page 400 of the Senate Journal; also  
6           Appropriations on SB 135 as found on page 400 of the Senate Journal; also  
7           Appropriations on SB 137 as found on page 400 of the Senate Journal; also  
8           State Affairs on SB 141 as found on page 401 of the Senate Journal; also  
9           State Affairs on SB 158 as found on page 402 of the Senate Journal be adopted.  
10          Which motion prevailed.

11                                   **SECOND READING OF CONSENT CALENDAR ITEMS**

12          HB 1095: FOR AN ACT ENTITLED, An Act to revise and clarify certain provisions  
13          relating to municipal officers.  
  
14          Was read the second time.  
  
15          The question being "Shall HB 1095 pass?"  
  
16          And the roll being called:  
  
17          Yeas 34, Nays 0, Excused 1, Absent 0  
  
18          Yeas:  
19          Begalka; Brown; Buhl O'Donnell; Curd; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff  
20          (Jean); Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas; Maher;  
21          Monroe; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;  
22          Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White  
  
23          Excused:  
24          Bradford  
  
25          So the bill having received an affirmative vote of a majority of the members-elect, the  
26          President declared the bill passed and the title was agreed to.

1 HB 1105: FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete  
2 provisions regarding the compilation and publication of certain local government annual fiscal  
3 reports.

4 Was read the second time.

5 The question being "Shall HB 1105 pass?"

6 And the roll being called:

7 Yeas 34, Nays 0, Excused 1, Absent 0

8 Yeas:

9 Begalka; Brown; Buhl O'Donnell; Curd; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff  
10 (Jean); Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas; Maher;  
11 Monroe; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;  
12 Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

13 Excused:

14 Bradford

15 So the bill having received an affirmative vote of a majority of the members-elect, the  
16 President declared the bill passed and the title was agreed to.

17 HB 1135: FOR AN ACT ENTITLED, An Act to revise certain exceptions to special  
18 assessments levied upon real property.

19 Was read the second time.

20 The question being "Shall HB 1135 pass?"

21 And the roll being called:

22 Yeas 34, Nays 0, Excused 1, Absent 0

23 Yeas:

24 Begalka; Brown; Buhl O'Donnell; Curd; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff  
25 (Jean); Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas; Maher;  
26 Monroe; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;  
27 Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

28 Excused:

29 Bradford

30 So the bill having received an affirmative vote of a majority of the members-elect, the  
31 President declared the bill passed and the title was agreed to.

1                   **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

2           Sen. Rave moved that SB 116, 176, and 157 be deferred to Tuesday, February 25, the 26<sup>th</sup>  
3 legislative day.

4           Which motion prevailed.

5           SB 106: FOR AN ACT ENTITLED, An Act to identify criteria to deny a minor boundary  
6 change.

7           Was read the second time.

8           The question being "Shall SB 106 pass?"

9           And the roll being called:

10          Yeas 31, Nays 3, Excused 1, Absent 0

11          Yeas:

12 Begalka; Buhl O'Donnell; Curd; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean);  
13 Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Maher; Monroe; Novstrup  
14 (Al); Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt; Solano; Sutton; Tidemann;  
15 Tieszen; Van Gerpen; Vehle; Welke; White

16          Nays:

17 Brown; Lucas; Omdahl

18          Excused:

19 Bradford

20          So the bill having received an affirmative vote of a majority of the members-elect, the  
21 President declared the bill passed and the title was agreed to.

22          SB 9: FOR AN ACT ENTITLED, An Act to revise provisions related to the Interim  
23 Appropriations Committee.

24          Was read the second time.

25          The question being "Shall SB 9 pass as amended?"

26          And the roll being called:

27          Yeas 30, Nays 4, Excused 1, Absent 0

1 Yeas:

2 Begalka; Brown; Buhl O'Donnell; Curd; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean);  
3 Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas; Maher; Novstrup (Al);  
4 Otten (Ernie); Peters; Rampelberg; Rhoden; Soholt; Solano; Sutton; Tidemann; Tieszen; Van  
5 Gerpen; Vehle; Welke; White

6 Nays:

7 Ewing; Monroe; Omdahl; Rave

8 Excused:

9 Bradford

10 So the bill having received an affirmative vote of a majority of the members-elect, the  
11 President declared the bill passed and the title was agreed to.

12 SB 94: FOR AN ACT ENTITLED, An Act to appropriate money in order to fund the fiscal  
13 year 2014 health insurance shortfall for Board of Regents employees compensated from tuition,  
14 fees, and other funds, and to declare an emergency.

15 Was read the second time.

16 The question being "Shall SB 94 pass as amended?"

17 And the roll being called:

18 Yeas 31, Nays 3, Excused 1, Absent 0

19 Yeas:

20 Begalka; Brown; Buhl O'Donnell; Curd; Ewing; Frerichs; Heineman (Phyllis); Hunhoff (Jean);  
21 Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;  
22 Novstrup (Al); Otten (Ernie); Peters; Rampelberg; Rave; Soholt; Solano; Sutton; Tidemann;  
23 Tieszen; Van Gerpen; Vehle; Welke; White

24 Nays:

25 Holien; Omdahl; Rhoden

26 Excused:

27 Bradford

28 So the bill having received an affirmative vote of a two-thirds majority of the members-  
29 elect, the President declared the bill passed and the title was agreed to.

30 SB 184: FOR AN ACT ENTITLED, An Act to make an appropriation to support the South  
31 Dakota Hall of Fame and to declare an emergency.

32 Was read the second time.



1 The question being "Shall SB 184 pass as amended?"

2 And the roll being called:

3 Yeas 21, Nays 13, Excused 1, Absent 0

4 Yeas:

5 Begalka; Buhl O'Donnell; Ewing; Frerichs; Heineman (Phyllis); Jones (Chuck); Jones (Tom);  
6 Kirkeby; Krebs; Lederman; Lucas; Novstrup (Al); Peters; Soholt; Sutton; Tidemann; Tieszen;  
7 Van Gerpen; Vehle; Welke; White

8 Nays:

9 Brown; Curd; Holien; Hunhoff (Jean); Jensen; Maher; Monroe; Omdahl; Otten (Ernie);  
10 Rampelberg; Rave; Rhoden; Solano

11 Excused:

12 Bradford

13 So the bill not having received an affirmative vote of a two-thirds majority of the members-  
14 elect, the President declared the bill lost.

15 Sen. Jones (Tom) announced his intention to reconsider the vote by which SB 184 lost.

16 SB 185: FOR AN ACT ENTITLED, An Act to make an appropriation to support the W.H.  
17 Over Museum and to declare an emergency.

18 Was read the second time.

19 The question being "Shall SB 185 pass as amended?"

20 And the roll being called:

21 Yeas 21, Nays 13, Excused 1, Absent 0

22 Yeas:

23 Begalka; Buhl O'Donnell; Ewing; Frerichs; Jones (Chuck); Jones (Tom); Kirkeby; Krebs;  
24 Lederman; Lucas; Novstrup (Al); Omdahl; Peters; Rampelberg; Soholt; Sutton; Tidemann; Van  
25 Gerpen; Vehle; Welke; White

26 Nays:

27 Brown; Curd; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Maher; Monroe; Otten  
28 (Ernie); Rave; Rhoden; Solano; Tieszen

29 Excused:

30 Bradford

1 So the bill not having received an affirmative vote of a two-thirds majority of the members-  
2 elect, the President declared the bill lost.

3 Sen. Jones (Tom) announced his intention to reconsider the vote by which SB 185 lost.

4 SB 165: FOR AN ACT ENTITLED, An Act to develop a systematic process for the  
5 performance management review of state agencies.

6 Was read the second time.

7 The question being "Shall SB 165 pass?"

8 And the roll being called:

9 Yeas 30, Nays 4, Excused 1, Absent 0

10 Yeas:

11 Begalka; Brown; Buhl O'Donnell; Curd; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff  
12 (Jean); Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas; Maher;  
13 Novstrup (Al); Omdahl; Otten (Ernie); Rampelberg; Rave; Rhoden; Soholt; Solano; Tieszen;  
14 Van Gerpen; Vehle; Welke; White

15 Nays:

16 Monroe; Peters; Sutton; Tidemann

17 Excused:

18 Bradford

19 So the bill having received an affirmative vote of a majority of the members-elect, the  
20 President declared the bill passed and the title was agreed to.

21 SB 114: FOR AN ACT ENTITLED, An Act to establish a wine direct shipper license and  
22 to provide for certain direct shipments of wine.

23 Was read the second time.

24 114tb

25 Sen. Lederman moved that SB 114 be further amended as follows:

26 On page 2, line 17, of the Senate Commerce and Energy Committee engrossed bill, after  
27 "wine" insert "if the wine is not in distribution in this state".

1 Sen. Begalka requested a roll call vote.

2 Which request was not supported.

3 The motion to amend lost.

4 The question being "Shall SB 114 pass as amended?"

5 And the roll being called:

6 Yeas 23, Nays 11, Excused 1, Absent 0

7 Yeas:

8 Brown; Buhl O'Donnell; Curd; Ewing; Frerichs; Heineman (Phyllis); Jensen; Kirkeby; Krebs;  
9 Lucas; Maher; Monroe; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rave; Rhoden; Soholt;  
10 Sutton; Tidemann; Tieszen; Welke

11 Nays:

12 Begalka; Holien; Hunhoff (Jean); Jones (Chuck); Jones (Tom); Lederman; Rampelberg; Solano;  
13 Van Gerpen; Vehle; White

14 Excused:

15 Bradford

16 So the bill having received an affirmative vote of a majority of the members-elect, the  
17 President declared the bill passed and the title was agreed to.

18 SB 107: FOR AN ACT ENTITLED, An Act to accommodate legislation on the state aid  
19 to education formula and to make an appropriation therefor.

20 Was read the second time.

21 The question being "Shall SB 107 pass?"

22 And the roll being called:

23 Yeas 33, Nays 1, Excused 1, Absent 0

24 Yeas:

25 Begalka; Brown; Buhl O'Donnell; Curd; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff  
26 (Jean); Jensen; Jones (Chuck); Jones (Tom); Kirkeby; Krebs; Lederman; Lucas; Maher;  
27 Monroe; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden; Soholt;  
28 Solano; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

1 Nays:  
2 Sutton

3 Excused:  
4 Bradford

5 So the bill having received an affirmative vote of a two-thirds majority of the members-  
6 elect, the President declared the bill passed and the title was agreed to.

7 SB 168: FOR AN ACT ENTITLED, An Act to provide oversight and accountability to  
8 certain economic activities.

9 Was read the second time.

10 168ta

11 Sen. Frerichs moved that SB 168 be amended as follows:

12 On the printed bill, delete everything after the enacting clause and insert:

13 "Section 1. The commissioner of the Governor's Office of Economic Development and the  
14 commissioner of the Bureau of Finance and Management shall compile and publish, in printed  
15 and electronic form, an annual unified economic development report by January first. The report  
16 shall provide information concerning the building South Dakota fund, revolving economic  
17 development and initiative fund, and the employer's investment in South Dakota's future fund.  
18 The information shall include:

19 (1) The name of each recipient; the dollar amount each recipient received; and  
20 summaries of the number of full-time and part-time jobs created or retained, an  
21 overview of benefits offered, and the degree to which job creation and retention,  
22 wage and benefit goals and requirements of recipient and related corporations, if any,  
23 have been met. The report shall include source of the state financial assistance  
24 provided; the number of recipients within each category of funding; overview of  
25 benefits offered; and the degree to which job creation and retention, wage and benefit  
26 rate goals and requirements have been met;

27 (2) The cost to the state and the approving agency for each source of financial assistance  
28 provided to a recipient during the preceding fiscal year;

29 (3) The extent to which any employees of and recipients of any funding have received  
30 job training assistance; and

31 (4) To the extent the data exists, a cost-benefit analysis prepared by the Bureau of  
32 Finance and Management based upon the collected data and required for the  
33 preparation of the unified economic development report. The cost-benefit analysis  
34 may include the cost to the state for the revenues reductions, cost to administer the  
35 economic development funds and programs, projected revenues gained from the

1 assistance provided by the state, and other metrics which can be measured along with  
2 a baseline assessment of the original intent of the legislation. The Bureau of Finance  
3 and Management shall also indicate the purpose of the state funding assistance to the  
4 extent that it is provided in the enabling legislation, or note the absence of such  
5 information, and any measureable goals established by the administer of the fund or  
6 program. Where possible, the analysis shall cover a five year period projecting the  
7 cost and benefits over this period. The Bureau of Finance and Management may  
8 utilize outside services or sources for development of the methodology and modeling  
9 techniques. The unified economic development report shall include the cost-benefit  
10 analysis starting July 1, 2013. The Bureau of Finance and Management shall work  
11 in conjuncture with the Governor's Office of Economic Development.

12 Section 2. Terms used in this Act mean:

- 13 (1) "Economic development incentive," any funding provided to a project or program  
14 through the building South Dakota fund; the revolving economic development and  
15 initiative fund, and the employer's investment in South Dakota's future fund;
- 16 (2) "Future economic development incentive," any future incentive enacted after July 1,  
17 2014, for the purpose of recruitment or retention of business.

18 Section 3. The director of the Bureau of Finance and Management shall prepare an analysis  
19 and report, produced in consultation with the commissioner of the Governor's Office of  
20 Economic Development and the secretary of the Department of Labor concerning:

- 21 (1) The projects and programs funded by the building South Dakota fund by January 1,  
22 2016, and no less than once every three (3) years thereafter;
- 23 (2) The businesses and projects funded by the revolving economic development and  
24 initiative fund and the employer's investment in South Dakota's future fund by  
25 January 1, 2015, and no less than once every three years thereafter.

26 Section 4. No later than the September 1, 2014, the commissioner of Bureau of Finance and  
27 Management, shall submit to the chairs of the Government Operations and Audit Committee  
28 a three-year plan for evaluating economic development incentives.

29 Section 5. The commissioner of the Bureau of Finance and Management baseline  
30 assessment of the economic development incentives, including, if applicable:

- 31 (1) The number of aggregate jobs associated with the entity receiving assistance and the  
32 aggregate annual revenue that entity generates for the state through the direct taxes  
33 applied to the entity and through the taxes applied to their employees;
- 34 (2) The statutory and programmatic goals and intent of the economic development  
35 incentives, if the goals and intentions are included in the incentive's enabling statute  
36 or legislation;

- 1       (3)    The number of entities provided the economic development incentives during the  
2           previous twelve month period;
- 3       (4)    The value of the economic development incentives granted, and ultimately claimed,  
4           listed by the North American Industrial Classification System (NAICS) Code  
5           associated with the entity receiving the benefit, if such NAICS Code is available;
- 6       (5)    An assessment and five year projection of the potential impact on the state's revenue  
7           stream from carry forwards allowed under the economic development incentives;
- 8       (6)    An estimate of the economic impact of the economic development incentives  
9           including:
  - 10           (a)    An estimate of the number of jobs that were the direct result of the incentive;  
11                   and
  - 12           (b)    A statement by the commissioner of the Governor's Office of Economic  
13                   Development as to whether, in his or her judgment, the statutory and  
14                   programmatic goals of the economic development incentives benefit are being  
15                   met, with obstacles to such goals identified, if possible;
- 16       (7)    The estimated cost to the state to administer the economic development incentives,  
17           if such information is available;
- 18       (8)    An estimate of the extent to which benefits of the economic development incentives  
19           remained in state or flowed outside the state, if such information is available;
- 20       (9)    In the case of economic development incentives where measuring the economic  
21           impact is significantly limited due to data constraints, whether any changes in statute  
22           would facilitate data collection in a way that would allow for better analysis;
- 23       (10)   Whether the effectiveness of the economic development incentives could be  
24           determined more definitively if the legislature were to clarify or modify the economic  
25           development incentive's goals and intended purpose;
- 26       (11)   A recommendation as to whether the economic development incentives should be  
27           continued, modified or terminated, the basis for the recommendation, and the  
28           expected impact of the recommendation on the state's economy;
- 29       (12)   The methodology and assumptions used in carrying out the assessments, projections  
30           and analyses required pursuant to subdivisions (1) through (8) of this section.

31       Section 6. Each department, office, board, and agency of the state shall cooperate with the  
32       commissioner of the Bureau of Finance and Management and shall provide to the Bureau of  
33       Finance and Management any records, information, data, and data analysis as may be necessary  
34       to complete the report required pursuant to this Act

Section 7. The Governor during the submission of the budget report to the Legislature pursuant to § 4-7-9 shall identify each economic development incentive for which an evaluation was completed in accordance with this Act in the period since the Governor's previous budget submission. For each evaluated economic development incentives, the Governor's budget submission shall include a recommendation as to whether the economic development incentives should be continued, modified, or terminated."

Which motion lost.

The question being "Shall SB 168 pass?"

And the roll being called:

Yeas 31, Nays 2, Excused 2, Absent 0

Yeas:

Begalka; Brown; Buhl O'Donnell; Curd; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Jones (Chuck); Kirkeby; Krebs; Lederman; Maher; Monroe; Novstrup (Al); Omdahl; Otten (Ernie); Peters; Rampelberg; Rhoden; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

Nays:

Lucas; Rave

Excused:

Bradford; Jones (Tom)

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

Sen. Rave moved that HB 1061, 1029, 1012, 1015, 1045, 1058, 1079, 1014, 1110, 1069, 1178, 1019, 1081, 1068, 1028, 1033, and 1108 be deferred to Tuesday, February 25, the 26<sup>th</sup> legislative day.

Which motion prevailed.

## SIGNING OF BILLS

The President publicly read the title to

SB 39: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the regulation of certain open containers of alcoholic beverages.

1 SB 60: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the titling  
2 and licensing of boats and motor vehicles and to establish certain penalties for violation of those  
3 provisions.

4 SB 88: FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete  
5 provisions regarding traction engines operated over bridges.

6 SB 119: FOR AN ACT ENTITLED, An Act to update and revise the statutes relating to  
7 the South Dakota Board on Geographic Names.

8 HB 1064: FOR AN ACT ENTITLED, An Act to repeal certain obsolete provisions and  
9 references concerning weather modification programs.

10 HB 1074: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning  
11 actions prohibited near polling places.

12 HB 1101: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the  
13 board of directors of the Science and Technology Authority.

14 And signed the same in the presence of the Senate.

15 Sen. Rave moved that the Senate do now adjourn, which motion prevailed and at 4:07 p.m.  
16 the Senate adjourned.

17 Jeannette Schipper, Secretary